

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

Application 6538 Permit 3548 License 3909

**ORDER AMENDING LICENSE BY CORRECTING THE POINT OF DIVERSION
AND ADDING REVISED LICENSE TERMS**

WHEREAS:

1. License 3909 was issued to United States Inyo National Forest on April 15, 1954, pursuant to Application 6538 and was recorded with the County Recorder of Mono County on April 19, 1954.
2. The Division of Water Rights (Division) conducted an inspection of the project covered by License 3909 on September 22, 1999. This inspection found that a correction in the description of the point of diversion is required.
3. The SWRCB will also add or update a standard continuing authority term, a water quality objective term and a term to prevent any act which results in the taking of a threatened or endangered species that has been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

License 2133 is amended to include the following changes, corrections and new or revised terms and conditions:

1. The Point of Diversion authorized by this license is corrected as follows:

Lake Mary Intake – South 1,160 feet and West 530 feet from the N $\frac{1}{4}$ corner of Section 16, T4S, R27E, MDB&M, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 16.

2. The continuing authority condition, is updated to read as follows:

Pursuant to California Water Code sections 100 and 275 and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution article X, section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

3. The water quality objectives condition, is updated to read as follows:

The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to division 7 of the California Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

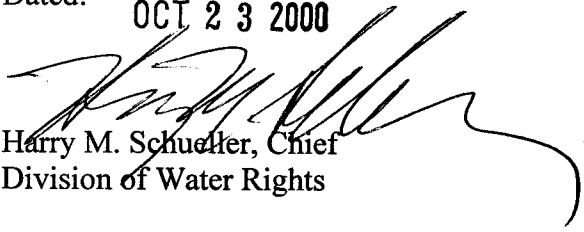
4. An endangered Species term is added to read as follows:

This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game

Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall obtain authorization for an incidental take prior to construction or operation of the project. Licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Dated:

OCT 23 2000



Harry M. Schueller, Chief
Division of Water Rights

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 6538 PERMIT 3548 LICENSE 3909

ORDER ALLOWING CHANGE IN PLACE OF USE
AND AMENDING THE LICENSE

WHEREAS:

1. License 3909 was issued to U.S. Inyo Forest and was filed with the County Recorder of Mono County on April 19, 1954.
2. An order allowing change in the place of use was granted on October 17, 1980 and has been recorded with the County Recorder of Mono County on October 28, 1980 in Volume 308, Book 2901, Page 485.
3. A petition for change in place of use has been filed with the State Water Resources Control Board and said Board has determined that good cause for such change has been shown.
4. The Board has determined that the petitioned change does not constitute the initiation of a new right nor operate to the injury of any other lawful user of water.
5. The license condition pertaining to the continuing authority of the Board should be updated to conform to Section 780(a), Title 23, of the California Code of Regulations.

NOW, THEREFORE, IT IS ORDERED THAT:

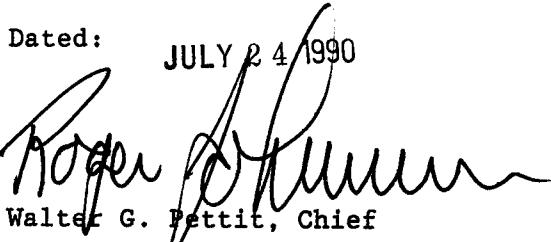
1. The place of use under this license shall be changed to include: The Sherwin Creek Campground located within the NE $\frac{1}{4}$ of SE $\frac{1}{4}$ and SE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 1, T3S, R27E, MDB&M and the NW $\frac{1}{4}$ of SW $\frac{1}{4}$ and SW $\frac{1}{4}$ of NW $\frac{1}{4}$ of Section 6, T3S, R28E, MDB&M.
2. The continuing authority conditions in this license be amended to read:

Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this license, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the State Water Resources Control Board in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the Board may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the Board also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the Board determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust. (0000012)

Dated: JULY 24 1990

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Walter G. Pettit, Chief
Division of Water Rights

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STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

ORDER

APPLICATION 6538

PERMIT 3548

LICENSE 3909

ORDER CORRECTING DESCRIPTION
OF THE PLACE OF USE

WHEREAS:

1. License 3909 was issued to United States Inyo National Forest and was filed with the County Recorder of Mono County on April 15, 1954.
2. Correction of the description of the place of use does not involve any physical change, and said correction will not operate to the injury of any other legal user of water.

NOW, THEREFORE, IT IS ORDERED THAT:

The description of the place of use under License 3909 be corrected to:

A portion of Mill City Tract, Inyo National Forest consisting of Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 12, 13, 26 and 1-A, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 9, T4S, R27E, MDB&M and SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4, T4S, R27E, MDB&M.

Dated: OCTOBER 17 1980

Walter G. Pettit

Walter G. Pettit, Chief
Division of Water Rights

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STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS
ORDER

Application 6538 Permit 3548 License 3909

ORDER AMENDING LICENSE

WHEREAS:

1. License 3909 was issued to the United States, Inyo National Forest, and filed at the office of the Mono County Recorder on April 19, 1954.
2. License 3909 confers upon the Inyo National Forest, U.S. Department of Agriculture, an appropriative right to use water from Lake Mary in Mono County.
3. Fish and Game Code Section 5946 requires that the State Water Resources Control Board condition Licenses that authorize diversion of water in Department of Fish and Game District 4 ½ (Inyo and Mono Counties) to specify compliance with Section 5937 of the Fish and Game Code.
4. The License was issued without referencing compliance with Section 5937.
5. Since amendment of License 3909 to require compliance with Section 5937 is a ministerial action, this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) and the State CEQA Guidelines in accordance with Section 21080 of the Public Resources Code.

NOW, THEREFORE, IT IS ORDERED THAT:

The following condition is added to this License:

In accordance with the requirements of Fish and Game Code Section 5946, this License is conditioned upon full compliance with Section 5937 of the Fish and Game Code.

Dated: **JUNE 16 1997**


Walt Pettit
Executive Director



STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

License for Diversion and Use of Water

APPLICATION 6538

PERMIT 3548

LICENSE 3909

THIS IS TO CERTIFY, That United States - Inyo National Forest
Bishop, California

has made proof as of September 22, 1953,
(the date of inspection) to the satisfaction of the State Engineer of California of a right to the use of the water of
Lake Mary in Mono County
tributary to Mammoth Creek thence Owens River

for the purpose of domestic use

under Permit 3548 of the Department of Public Works and that said right to the use of said water has been perfected in accordance with the laws of California, the Rules and Regulations of the Department of Public Works and the terms of the said permit; that the priority of the right herein confirmed dates from January 17, 1930; and that the amount of water to which such right is entitled and hereby confirmed, for the purposes aforesaid, is limited to the amount actually beneficially used for said purposes and shall not exceed five thousand five hundred (5500) gallons per day to be diverted from about May 1 to about October 15 of each year.

The point of diversion of such water is located south seventy-one degrees east (S71°E) two thousand four hundred sixty (2460) feet from NW corner of Section 16, T 4 S, R 27 E, MDB&M, being within the NE $\frac{1}{4}$ of NW $\frac{1}{4}$ of said Section 16.

A description of the lands or the place where such water is put to beneficial use is as follows:

A portion of Mill City Tract, Inyo National Forest, consisting of Lots 1,2,3,4,5, 6,7,8 9,12,13,26,1-A, and campground area, being within NE $\frac{1}{4}$ of NE $\frac{1}{4}$ of Section 9, T 4 S, R 27 E, MDB&M, and SE $\frac{1}{4}$ of SE $\frac{1}{4}$ of Section 4, T 4 S, R 27 E, MDB&M.

All rights and privileges under this license including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Department acting through the State Engineer in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the State Engineer.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein confirmed subject to the following provisions of the Water-Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Department.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

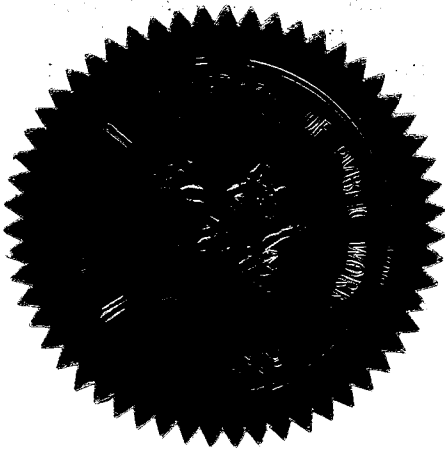
Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting district, or political subdivision of the State so desiring to purchase and the owner of the works and property can not agree upon the purchase price, the price shall be determined in such manner as is now or may hereafter be provided by law for determining the value of property taken in eminent domain proceedings.

Witness my hand and the seal of the Department of Public
Works of the State of California, this 15th
day of April, 1954

A. D. EDMONSTON, State Engineer

By 
HARVEY O. BANKS
Assistant State Engineer



LICENSE 3909

STATE OF CALIFORNIA—DEPARTMENT OF PUBLIC WORKS
DIVISION OF WATER RESOURCES
STATE ENGINEER

LICENSE
TO APPROPRIATE WATER

ISSUED TO United States -
Inyo National Forest

DATED

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